

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EXPORT DEVELOPMENT CANADA

Plaintiff,

- against -

EAST COAST POWER & GAS, LLC,

Defendants.  
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**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:** \_\_\_\_\_  
**DATE FILED:** 2/8/2024

21-CV-3758 (NRB) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves the discovery dispute raised by judgment-creditor Export Development Canada (“EDC”) at Dkt. 59 and to which judgment debtor East Coast Power & Gas (“East Coast”) responded at Dkt. 61. In addition to the parties’ correspondence, the Court has reviewed earlier correspondence addressing many of the same issues, as well as the Court’s Order issued on December 14, 2023 at Dkt. 57 (the “Order”). The Court agrees with EDC that East Coast failed to comply with item number 3 of the Order, requiring that “For any request to which East Coast has objected, East Coast shall identify any responsive documents being withheld on the basis of the objection asserted.” The Court did not see any such identification in the revised responses or counsel’s declaration at Dkt. 58-1. In that respect, East Coast has failed to comply with the Federal Rules of Civil Procedure and with the Court’s order. Accordingly, by February 15, 2024, East Coast shall comply, in writing, with item number 3 of the Order. For documents withheld on the basis of privilege, East Coast need not identify anything further than what is already on its privilege log. If no documents are being withheld on the basis of any objection other than privilege, then East Coast must so represent in writing. The Court does not agree

with EDC with respect to the remaining issues it has raised in Dkt. 59; accordingly, the requests made in connection those issues are denied. Given that the Court is granting only part of the relief requested by EDC, the Court denies EDC's request for payment of fees and costs. However, if East Coast again fails to comply with the Court's Order and the instant order, East Coast and its counsel will be sanctioned accordingly.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: February 8, 2024  
New York, New York

Copies transmitted this date to all counsel of record.